

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #5	CCRB Case #: 201909547	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury		
Incident Date(s) Thursday, 10/31/2019 8:26 PM	Location of Incident: § 87(2)(b)		Precinct: 76	18 Mo. SOL 4/30/2021	EO SOL 12/15/2021
Date/Time CV Reported Mon, 11/04/2019 10:32 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/04/2019 10:32 AM		

[illegible][illegible]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. PO Christophe Brower	07455	957404	076 PCT
4. POM Christophe Digioia	16969	946939	076 PCT
5. POM Justin Fausto	08193	961753	076 PCT
6. LT John Dasaro	00000	948198	076 PCT

Subject Officer(s)	Shield	TaxID	Command
7. SGT Michael Kutny	07751	951892	076 PCT
8. POM Shingru Wang	06706	957269	076 PCT
9. PO Mohsin Akhtar	18100	958226	076 PCT
10. DI Megan Omalley	00000	930859	076 PCT
11. POM Joseph Gonzalez	09416	938594	076 PCT
12. DTS Vincent Marrone	1832	904455	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jake Rotolo	23896	963247	076 PCT
2. POF Kelsey Mahne	10585	960849	076 PCT
3. POF Katelyn McGovern	14417	964156	076 PCT
4. SGT Daniel Mervis	03204	948094	076 PCT
5. POM Garrett Williams	24151	953568	076 PCT
6. POM Mitchell Emile	16155	957565	076 PCT
7. SGT Andrew Dickson	04416	943170	076 PCT
8. POM Matthew Kasler	05781	960746	076 PCT
9. POM Arony Youssef	13975	962181	076 PCT
10. POM Dorian Alvarez	27578	965396	076 PCT
11. POM Lawrence Pitta	14853	962697	076 PCT
12. SGT Jesse Ankele	04673	927867	076 PCT
13. POF Lauren Maragni	14565	956879	076 PCT
14. POF Krystal Class	14630	955825	076 PCT
15. CPT Anthony Iemmiti	00000	926977	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT John Dasaro	Abuse: Lieutenant John Dasaro stopped § 87(2)(b)	
B.LT John Dasaro	Abuse: Lieutenant John Dasaro stopped § 87(2)(b)	
C.LT John Dasaro	Abuse: Lieutenant John Dasaro stopped § 87(2)(b)	
D.LT John Dasaro	Abuse: Lieutenant John Dasaro stopped § 87(2)(b)	
E.LT John Dasaro	Abuse: Lieutenant John Dasaro stopped § 87(2)(b)	
F.PO Christophe Brower	Force: Police Officer Christopher Brower struck § 87(2)(b) with a vehicle.	
G. An officer	Force: An officer struck § 87(2)(b) with a vehicle.	
H. An officer	Force: An officer struck an individual with a vehicle.	
I.LT John Dasaro	Abuse: Lieutenant John Dasaro threatened § 87(2)(b) with the use of force.	
J.LT John Dasaro	Force: Lieutenant John Dasaro pointed his gun at § 87(2)(b)	
K.LT John Dasaro	Discourtesy: Lieutenant John Dasaro spoke discourteously to § 87(2)(b)	
L.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia spoke discourteously to § 87(2)(b)	
M. An officer	Force: An officer pointed his gun at an individual.	
N.POM Shingru Wang	Force: Police Officer Shingru Wang used physical force against § 87(2)(b)	
O.POM Shingru Wang	Abuse: Police Officer Shingru Wang frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
P.POM Shingru Wang	Abuse: Police Officer Shingru Wang damaged § 87(2)(b) property.	
Q.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
R.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
S.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
T.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
U.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
V.POM Christophe Digioia	Abuse: Police Officer Christopher Digioia interfered with § 87(2)(b)'s use of a recording device.	
W.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
X.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
Y.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
Z.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
2A.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
2B. Officers	Abuse: Officers searched § 87(2)(b)	
2C. Officers	Abuse: Officers searched § 87(2)(b)	
2D. Officers	Abuse: Officers searched § 87(2)(b)	
2E. Officers	Abuse: Officers searched § 87(2)(b)	
2F. Officers	Abuse: Officers searched § 87(2)(b)	
2G. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
2H.LT John Dasaro	Abuse: Lieutenant John Dasaro frisked § 87(2)(b)	
2I.LT John Dasaro	Abuse: Lieutenant John Dasaro frisked § 87(2)(b)	
2J.LT John Dasaro	Abuse: Lieutenant John Dasaro frisked § 87(2)(b)	
2K.LT John Dasaro	Abuse: Lieutenant John Dasaro frisked § 87(2)(b)	
2L.LT John Dasaro	Abuse: Lieutenant John Dasaro frisked § 87(2)(b)	
2M.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
2N.LT John Dasaro	Abuse: Lieutenant John Dasaro searched § 87(2)(b)	
2O.PO Christophe Brower	Abuse: Police Officer Christopher Brower searched § 87(2)(b)	
2P.PO Christophe Brower	Abuse: Police Officer Christopher Brower damaged § 87(2)(b)'s property.	
2Q.PO Christophe Brower	Abuse: Police Officer Christopher Brower searched § 87(2)(b)'s recording device.	
2R. An officer	Abuse: An officer refused to provide his name to § 87(2)(b)	
2S.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia was discourteous toward § 87(2)(b)	
2T.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia was discourteous toward § 87(2)(b)	
2U.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia was discourteous toward § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
2V.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia was discourteous toward § 87(2)(b)	
2W.POM Christophe Digioia	Discourtesy: Police Officer Christopher Digioia was discourteous toward § 87(2)(b)	
2X.POM Christophe Digioia	Off. Language: Police Officer Christopher Digioia was offensive toward § 87(2)(b)	
2Y.POM Christophe Digioia	Off. Language: Police Officer Christopher Digioia was offensive toward § 87(2)(b)	
3Z.POM Christophe Digioia	Off. Language: Police Officer Christopher Digioia was offensive toward § 87(2)(b)	
3A.POM Christophe Digioia	Off. Language: Police Officer Christopher Digioia was offensive toward § 87(2)(b)	
3B.POM Christophe Digioia	Off. Language: Police Officer Christopher Digioia was offensive toward § 87(2)(b)	
3C.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley arrested § 87(2)(b)	
3D.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley arrested § 87(2)(b)	
3E.DI Megan Omalley	Abuse: Deputy Inspector Megan O'Malley arrested § 87(2)(b)	
3F.LT John Dasaro	Abuse: Lieutenant John Dasaro failed to provide § 87(2)(b) with a business card.	
3G.LT John Dasaro	Abuse: Lieutenant John Dasaro failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On November 4, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of her then-§ 87(2)(b)-year-old son, § 87(2)(b). On November 8, 2019, § 87(2)(b) filed a duplicate complaint over the phone with the CCRB on behalf of her then-§ 87(2)(b)-year-old son, § 87(2)(b) and § 87(2)(b) were not present during the incident.

On October 31, 2019, at approximately 8:26 p.m., Lieutenant John Dasaro and Police Officer Christopher Digioia, then assigned to the 76<sup>th</sup> Precinct, attempted to stop a large group of teenagers at § 87(2)(b) and § 87(2)(b) in Brooklyn, including § 87(2)(b) and § 87(2)(b) whom they suspected had been involved in a robbery. The majority of the group fled, including § 87(2)(b) and § 87(2)(b) and multiple foot pursuits ensued (**Allegations A-C: Abuse of Authority**, § 87(2)(g) **Allegations D-E: Abuse of Authority**, § 87(2)(g) Police Officer Christopher Brower, also of the 76<sup>th</sup> Precinct, struck § 87(2)(b) with his vehicle (**Allegation F: Force**, § 87(2)(g) An officer allegedly struck § 87(2)(b) and an unknown individual with his vehicle (**Allegations G-H: Force**, § 87(2)(g)). Lt. Dasaro allegedly told § 87(2)(b) “Stop before I shoot,” and then stopped him at gun point (**Allegation I: Abuse of Authority**, § 87(2)(g) **Allegation J: Force**, § 87(2)(g) Lt. Dasaro told § 87(2)(b) “Get on the fucking floor,” “Show me your fucking hands,” “Turn the fuck around,” and “Shut the fuck up” (**Allegation K: Discourtesy**, § 87(2)(g) PO Digioia told § 87(2)(b) “Turn the fuck around, give me your fucking hands,” “Put your fucking hands behind your back,” and “You’re as dumb as the rest of your friends” (**Allegation L: Discourtesy**, § 87(2)(g) An officer allegedly pointed his gun at a teen known only as § 87(2)(b) (**Allegation M: Force**, § 87(2)(g) Sergeant Jesse Ankele of the 76<sup>th</sup> Precinct pursued § 87(2)(b) and § 87(2)(b) and was assisted by Sergeant Andrew Dickson, Police Officer Shingru Wang, and Police Officer Michael Kutny, all of the 76<sup>th</sup> Precinct. PO Wang allegedly took § 87(2)(b) to the ground (**Allegation N: Force**, § 87(2)(g) and then handcuffed him. PO Wang frisked § 87(2)(b) and then cut his backpack with a knife to remove it from his person (**Allegations O-P: Abuse of Authority**, § 87(2)(g)

Officers led § 87(2)(b) and § 87(2)(b) back to § 87(2)(b) and § 87(2)(b) where they were held with § 87(2)(b) and § 87(2)(b) Deputy Inspector Megan O’Malley, then assigned to the 76<sup>th</sup> Precinct, failed to explain to the five teens why they were stopped (**Allegations Q-U: Abuse of Authority**, § 87(2)(g) PO Digioia told § 87(2)(b) to put his phone away when he attempted to record the interaction (**Allegation V: Abuse of Authority**, § 87(2)(g) Lt. Dasaro and unidentified officers allegedly searched each teen’s backpack (**Allegations W-AA: Abuse of Authority**, § 87(2)(g) **Allegations AB-AF: Abuse of Authority**, § 87(2)(g) An officer allegedly damaged § 87(2)(b)’s backpack (**Allegation AG: Abuse of Authority**, § 87(2)(g) Lt. Dasaro frisked § 87(2)(b) and § 87(2)(b) and PO Kutny frisked § 87(2)(b) under Lt. Dasaro’s supervision (**Allegations AH-AJ: Abuse of Authority**, § 87(2)(g) PO Digioia frisked § 87(2)(b) and § 87(2)(b) under Lt. Dasaro’s supervision (**Allegations AK-AL: Abuse of Authority**, § 87(2)(g) Lt. Dasaro searched § 87(2)(b) and § 87(2)(b) (**Allegations AM-AN: Abuse of Authority**, § 87(2)(g) PO Brower removed § 87(2)(b)’s cellphone from his pocket, damaged § 87(2)(b)’s cellphone, and allegedly searched § 87(2)(b)’s cellphone (**Allegations AO-AP: Abuse of Authority**, § 87(2)(g) **Allegation AQ: Abuse of Authority**, § 87(2)(g)

An officer allegedly refused to provide his name to § 87(2)(b) (**Allegation AR: Abuse of Authority**, § 87(2)(g)). PO Digioia wore a sweatshirt emblazoned with the Punisher logo (**Allegations AS-AW: Discourtesy**, § 87(2)(g) **Allegations AX-BB: Offensive Language**, § 87(2)(g) DI O’Malley arrested § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) (Allegations BC-BE: Abuse of Authority, § 87(2)(g) Lt. Dasaro allegedly failed to provide business cards to § 87(2)(b) and § 87(2)(b) (Allegations BF-BG: Abuse of Authority, § 87(2)(g), § 87(4-b)

§ 87(2)(b) and § 87(2)(b) were arrested and charged with obstructing governmental administration (OGA) (see Privileged Records).

The investigation obtained 33 BWC videos (BR 01-33), a brief cell phone video recorded by a passerby (BR 34), and surveillance footage from § 87(2)(b) (BR 35-38), all of which are summarized at (BR 39). The surveillance footage did not capture this incident. All references to video evidence below refer to the time stamp in the video player, and not to any on-screen clock embedded in the footage itself.

§ 87(2)(b)

This investigation was delayed by the COVID-19 global pandemic, delays in scheduling officers for remote interviews, and extremely substantial delays in receiving all BWC footage from the NYPD.

Lt. Dasaro has since been reassigned to Force Investigations Division. DI O'Malley has since been promoted to inspector and was reassigned to the 18<sup>th</sup> (MTN) Precinct. PO Digioia and Sgt. Dickson have since been reassigned to the 18<sup>th</sup> (MTN) Precinct. PO Kutny has since been promoted to sergeant and was reassigned to the 84<sup>th</sup> Precinct. PO Lawrence Pitta has since been reassigned to Brooklyn South Narcotics. Captain Anthony Iemmiti has since retired from the NYPD.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Lieutenant John Dasaro stopped**

**Allegation (B) Abuse of Authority: Lieutenant John Dasaro stopped**

**Allegation (C) Abuse of Authority: Lieutenant John Dasaro stopped**

**Allegation (D) Abuse of Authority: Lieutenant John Dasaro stopped**

**Allegation (E) Abuse of Authority: Lieutenant John Dasaro stopped**

The following facts are undisputed: PO Katelyn McGovern and PO Jake Rotolo, both assigned to the 76<sup>th</sup> Precinct, were on a footpost in Carroll Park when several teenagers approached them and said that they had been assaulted and that one of them was robbed of his cell phone. The officers transmitted a 10-30 robbery in progress call, which prompted officers in the area to begin canvassing for the perpetrators. Shortly after the 10-30 transmission, several blocks away from Carroll Park, Anti-crime officers Lt. Dasaro, PO Digioia, and PO Brower saw a group of young Black males whom they believed fit the description provided in the radio message. They attempted to stop the group and all the teens, except for two, fled on foot. Multiple foot pursuits then ensued. These stop allegations are pleaded against Lt. Dasaro because he was the supervisor who initiated the stop.

§ 87(2)(b) and § 87(2)(b) all Black males between § 87(2)(b) years old, testified (BR 44-51) that they and their friends had been trick-or-treating for a few hours at the time of the incident. They estimated that the group contained 6-15 teens. § 87(2)(b) wore a green sweatshirt and blue jeans. § 87(2)(b) wore black sweatpants and a

black hoodie. § 87(2)(b) wore black sweatpants and a black hoodie. § 87(2)(b) wore a red and black windbreaker jacket and blue jeans. They generally did not recall what their other friends were wearing.

They all recounted that they were walking north on § 87(2)(b) when the incident began. They provided varying testimonies about how many vehicles approached them once they got to § 87(2)(b) and § 87(2)(b) but they were all consistent in their recollections that multiple police vehicles quickly approached from various directions. They generally recounted seeing multiple plainclothes officers exit from the vehicles and provided varying descriptions about how the officers exited, including that officers quickly “jumped” out of their vehicles and that PO Digioia had handcuffs in his hand. § 87(2)(b) and § 87(2)(b) testified that the officers did not say anything, while § 87(2)(b) stated that an officer said, “Don’t run.” § 87(2)(b) and § 87(2)(b) ran from the officers, while § 87(2)(b) did not. They generally recounted that they ran because they were scared.

§ 87(2)(b) did not provide a statement despite extensive contact attempts to his mother. The investigation was unable to contact § 87(2)(b) or any of their other friends.

The investigation obtained statements from six witnesses who saw varying parts of the incident – § 87(2)(b) and § 87(2)(b) (BR 52-57). § 87(2)(b) saw two groups of teenagers flee at the sight of an unmarked vehicle and did not hear any officers identify themselves as officers. The other witnesses either did not see this interaction or solely saw officers arriving and teenagers running.

PO McGovern and PO Rotolo initially spoke with the robbery victims in Carroll Park (BR 58-59). BWC footage (BR 10-13) showed that a wide array of victims and § 87(2)(g)

PO Rotolo relayed over the radio that the perpetrators were 7-10 black males, approximately § 87(2)(b) years old, heading northbound on § 87(2)(b) (BR 65). He later added that one had a black hoodie with “off-white [inaudible] written across the back in white letters.” PO McGovern relayed that the robbery took place 25 minutes ago. The 911 text system, access to which officers would have had on their phones and in-car computers, displayed the information PO Rotolo and PO McGovern relayed (BR 60). There was confusion regarding the phrase “off-white,” as PO Rotolo was stating the sweatshirt brand while the dispatcher did not specify what the “off-white” lettering was referring to. The fact that PO Rotolo was referring to the clothing brand was never transmitted over the radio or in the 911 text system.

Lt. Dasaro, PO Digioia, and PO Brower testified (BR 61-63) that they began canvassing in the area after they heard the radio transmission. PO Brower was driving, PO Digioia was in the passenger seat, and Lt. Dasaro was in the backseat. Lt. Dasaro recounted that the radio message specified that the robbery suspects were a large group of Black males. PO Digioia recounted that the description was for Black males, wearing a black sweatshirt with white writing on the back. PO Brower, who prepared a seven-page memo book entry and the Stop Reports (BR 64, 73), recounted that the radio message specified that the suspects were seven to ten Black males, one of whom was wearing a black hoodie with white writing, and that they were heading north on § 87(2)(b)

The officers were driving west toward § 87(2)(b) when they saw a group of teens walking northbound on § 87(2)(b) across the intersection toward which they were driving. They believed the group fit the description of the robbery perpetrators. Lt. Dasaro solely recalled that it was a large group of males, some of whom were Black and some of whom were wearing hoodies and dark clothing. PO Digioia and PO Brower recounted that there were approximately seven (with PO

Brower stating seven to ten) male teenagers, most of whom were Black, and one of whom was wearing a black sweatshirt with white writing on the back.

Lt. Dasaro instructed PO Brower to turn right and drive northbound on § 87(2)(b) against the flow of traffic. Lt. Dasaro announced over the radio, “I have a large group going right up by the movie theater from § 87(2)(b) at § 87(2)(b) (BR 65). The movie theater was identified as § 87(2)(b) located one block north, at § 87(2)(b) and § 87(2)(b) which is approximately five to six blocks from Carroll Park. Lt. Dasaro’s radio transmission occurred approximately nine minutes after PO Rotolo relayed the description of the perpetrators.

Lt. Dasaro and PO Brower testified that they suspected the group of being involved in the robbery upon initially seeing them, while PO Digioia stated that he was not certain whether they were involved. Lt. Dasaro suspected that they were involved because they were a large group, because they were walking north on § 87(2)(b) as PO Rotolo had relayed, because of their close proximity to the location of the robbery, and because he saw the group shortly after the report of the robbery came over the radio. The officers all testified that their intention was to stop the group, with PO Brower specifying that Lt. Dasaro ordered him and PO Digioia to stop the group.

Lt. Dasaro and PO Digioia exited the vehicle after PO Brower drove for a short distance on § 87(2)(b). PO Brower stopped the vehicle a few feet away from the group of boys. PO Brower could not recall if he exited at that point. Lt. Dasaro and PO Digioia recounted that the group scattered as soon as they exited the vehicle. Lt. Dasaro did not think he had a chance to say anything, and he did not recall whether his partners said anything. PO Digioia initially recounted that an officer said, “Please don’t move,” and that he said, “Please stop,” but he then stated that he did not recall whether the officers issued any commands. PO Brower recounted that Lt. Dasaro and PO Digioia both identified themselves as police officers and told the group to stop. All three officers testified that the boys’ immediate flight escalated their suspicion that they had committed the robbery.

Lt. Dasaro’s BWC footage (BR 16) shows him exiting his vehicle and chasing § 87(2)(b). The audio does not begin until mid-pursuit, so it does not capture what, if anything, officers said when they exited the vehicle. There is no additional footage capturing this portion of the incident.

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b). PO Digioia, PO Pitta, and PO Akhtar arrived and handcuffed § 87(2)(b). Simultaneously, Sgt. Ankele began pursuing § 87(2)(b) and § 87(2)(b) on foot. PO Kutny, PO Wang, and Sgt. Dickson arrived and assisted Sgt. Ankele (BR 66-69). § 87(2)(b) willingly threw himself onto the ground and PO Wang and Sgt. Dickson handcuffed him. Sgt. Ankele, PO Kutny, and PO Wang handcuffed § 87(2)(b).

Officers led § 87(2)(b) and § 87(2)(b) back to the intersection of § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) who had not run, remained standing near the intersection. Lt. Dasaro told officers, regarding § 87(2)(b) and § 87(2)(b) “If they were with them, if they were with that group, hold them, hold them too if they were with that group.” All five teens then stood against the wall of § 87(2)(b) (see screenshot at BR 72).

PO Brower prepared Stop Reports (BR 73) which were generally consistent with the officers’ testimonies, in that they justified the stops on the grounds that the boys matched a description and were in close proximity to the location of the crime.



As noted above, there was a wide array of testimony regarding how many police vehicles initially approached, the manner in which officers approached the teens, and what, if anything, the officers said to the teens before some of them fled. § 87(2)(b), § 87(2)(g)

A common law right of inquiry, a Level Two encounter, is an encounter between a civilian and an officer where an officer may approach and ask pointed questions due to founded suspicion that criminal activity is afoot. Officers may only conduct a forcible stop, a Level Three encounter, when they have individualized reasonable suspicion that § 87(2)(b) committed, is committing, or is about to commit a felony or misdemeanor. Patrol Guide Procedure 212-11 (BR 89). In determining whether and when a street encounter constituted a stop, courts consider “whether a reasonable person would have believed, under the circumstances, that the officer’s conduct was a significant limitation on his or her freedom.” *People v. Bora*, 83 N.Y.2d 531 (1994) (BR 77). Relevant factors include the location of the encounter, the number of officers involved, whether the officers prevented the individual from moving, the number of verbal commands issued, the content and tone of those commands, and whether an officer drew a gun. In *Bora*, the officer merely directed the defendant to “stop,” which the Court found did not rise to the level of a seizure.

In *People v. Hargroves*, the Court addressed an incident in which a man reported that he had been beaten and robbed by a “group of male blacks,” one of whom was wearing an orange coat or jacket. The Court characterized that description as too general to justify a stop, especially as the group the officers ultimately stopped did not attempt to flee. *People v. Hargroves*, 296 A.D.2d 581 (2002) (BR 75). In both *Cintron* and *Moore*, the Court found that officers were justified in approaching civilians who matched a general description of an alleged robber and who were in close temporal and spatial proximity to the crime scene. Officers then gained reasonable suspicion *after* the civilians fled upon approach. In *Cintron*, the Court also noted that officers had at least founded suspicion when they saw two men whose appearances did not perfectly match a radio description but did have sufficient similarities to the description. *People v. Cintron*, 304 A.D.2d 454 (2003) (BR 74); *People v. Moore*, 745 N.Y.S.2d 542 (2002) (BR 78). The Court in *Thompson* addressed officers who approached four men while investigating a radio report of a gunpoint robbery, and who then stopped three men after the fourth fled the scene. The Court ruled that the flight of one man did not give the officers reasonable suspicion to stop the other three, arguing, “The flight of one member of a group is hardly indicative of the collective guilt of the group. It is just as readily demonstrative of the innocence of those who remain at the scene.” *People v. Thompson*, 127 A.D.3d 658 (2015) (BR 79).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (F) Force: Police Officer Christopher Brower struck § 87(2)(b) with a vehicle.**

**Allegation (G) Force: An officer struck § 87(2)(b) with a vehicle.**

**Allegation (H) Force: An officer struck § 87(2)(b) with a vehicle.**

It is undisputed that multiple police vehicles quickly approached the intersection of § 87(2)(b) and § 87(2)(b) that PO Brower was driving against traffic on § 87(2)(b) and that PO Brower's vehicle came into contact with § 87(2)(b) § 87(2)(g).

§ 87(2)(b) testified that he fled from officers and ran across § 87(2)(b) and an unmarked vehicle drove against traffic and struck him. The vehicle was traveling fairly quickly. § 87(2)(b) recalled hearing a sound just before the collision, but he could not be sure of it by the time of his CCRB interview. He thought the sound was either the tires screeching or the vehicle's gas being hit. The front right side of the vehicle struck him on the left leg. He fell onto his right leg, and a small kitchen knife fell out of his backpack and onto the street. After a few seconds, he got up and continued running north on § 87(2)(b). He struck his right hand on the ground when he fell, and it went numb. He later learned his hand was broken. He also felt soreness in his left leg for a few days.

§ 87(2)(b) first sought medical treatment at a hospital a week after the incident (see Privileged Records). An X-ray found an oblique fracture on the fifth metacarpal bone of his right hand. The records indicate that § 87(2)(b) told medical personnel that he injured his hand in an altercation while trying to defend a friend.

§ 87(2)(b) did not testify to seeing § 87(2)(b) collision with a vehicle. However, he recounted seeing an unmarked vehicle strike his friend, § 87(2)(b) who was running on § 87(2)(b) by a nearby school. § 87(2)(b) did not know how fast the vehicle was moving, but it did not seem like a large impact. § 87(2)(b) fell onto the ground, then got up and continued running.

§ 87(2)(b) testified that he heard the screeching sound of a vehicle stopping abruptly and the sound of someone hitting the ground. He did not actually see a collision and did not see who was on the ground. § 87(2)(b) believed that § 87(2)(b) his friend § 87(2)(b) and a third unnamed friend were all struck by a vehicle, because he saw § 87(2)(b) and a third friend limping at school, and all three told him a vehicle struck them.

The investigation was unable to locate § 87(2)(b) did not testify to these allegations.

§ 87(2)(b) recounted that she saw a black unmarked sedan driving north on § 87(2)(b) at approximately ten miles per hour while navigating through traffic. § 87(2)(b) ran diagonally northeast across § 87(2)(b) and the unmarked vehicle struck him with its front bumper. § 87(2)(b) saw and heard the collision, which she described as "not a huge hit." § 87(2)(b) quickly got up and did not appear visibly injured. PO Brower, who was alone in the vehicle, stopped the vehicle and exited. He yelled something, got back into his vehicle, and continued driving north on § 87(2)(b).

§ 87(2)(b) § 87(2)(b) photographed the vehicle—the photos show the vehicle in the northern crosswalk of the intersection of § 87(2)(b) and Kane Street with PO Brower in the driver’s seat (BR 80-81). The trunk and rear wheels are just south of the crosswalk, and the rest of the vehicle is atop the crosswalk stripes. As previously noted, § 87(2)(b) the journalist who reported on the incident for § 87(2)(b) posted about the incident on § 87(2)(b) more than a week afterward. He noted that his wife § 87(2)(b) saw a police vehicle strike a boy (BR 42).

§ 87(2)(b) who was at § 87(2)(b) and § 87(2)(b) did not provide a phone statement until approximately eight months after the incident. She recounted hearing a police vehicle on § 87(2)(b) abruptly slam on its brakes, but it was not clear whether that vehicle was the one driven by PO Brower. She saw additional police vehicles converge a block or two farther north. She did not see a vehicle strike anyone. § 87(2)(b) recounted that he did not see an officer’s vehicle strike anyone, but some of the witnesses he was standing with, whom he did not know, told him that they saw it happen. The remaining three bystander witnesses either were not present at the time or did not testify to seeing a vehicle collide with anyone.

As noted above, PO Brower drove against the flow of traffic at Lt. Dasaro’s instruction. PO Brower acknowledged that § 87(2)(b) is typically busy, but he could not recall how busy it was at the time. It was after sundown, but streetlights illuminated the area. PO Brower activated his turret lights but not the sirens. He did not recall how fast he was driving. PO Brower drove for one or two blocks until he came alongside the group of teens, at which point he came to a complete stop and Lt. Dasaro and PO Digioia exited to pursue the teens. § 87(2)(b) ran into the street and ran into the front right side of PO Brower’s vehicle, near the headlight. Although he recounted that § 87(2)(b) ran into the vehicle after Lt. Dasaro and PO Digioia exited, PO Brower could not recall if § 87(2)(b) ran into the vehicle at the same location where Lt. Dasaro and PO Digioia exited, nor could he recall how much time elapsed between those officers exiting the vehicle and § 87(2)(b) running into the vehicle. Similarly, although PO Brower recounted coming to a complete stop to allow his partners to exit, he could not recall whether his vehicle was at a complete stop when § 87(2)(b) ran into it. PO Brower could not recall what part of § 87(2)(b) body made contact with the vehicle. § 87(2)(b) fell onto the ground and PO Brower exited his vehicle to determine whether he was injured. It did not appear that he was physically injured. § 87(2)(b) stood up, threw a kitchen knife onto the ground, and ran north on § 87(2)(b) PO Brower entered his vehicle and briefly canvassed by driving north on § 87(2)(b) but he could not find § 87(2)(b) PO Brower documented in his memo book that “one perp ran into RMP” (BR 64).

PO Brower denied that he intended for § 87(2)(b) to collide with the vehicle. He did not know whether it seemed that § 87(2)(b) ran into the vehicle accidentally or intentionally. Though PO Brower maintained that § 87(2)(b) ran into his vehicle, when asked directly whether his vehicle struck any civilian while he was driving it, PO Brower stated that he could not remember. PO Brower denied that any civilian other than § 87(2)(b) collided with his vehicle during the incident.

Lt. Dasaro testified that the location was well-lit and that the flow of traffic seemed fair. He recounted that PO Brower maintained a “slow rate of speed” while driving against traffic. PO Digioia said that he was driving about ten miles per hour. Neither officer saw PO Brower strike any individual with his vehicle or saw § 87(2)(b) run into the vehicle at any point. Neither officer heard any sounds indicating that there had been a vehicle collision. DI O’Malley testified (BR 71) that she saw a report on § 87(2)(b) describing the vehicle strike after the incident. She interviewed every officer who was on scene. Only PO Brower acknowledged being involved in an incident involving a police vehicle. PO Brower told her that § 87(2)(b) ran against traffic and into the

hood of his vehicle while he was stationary on § 87(2)(b) PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, and Sgt. Ankele testified that they did not see a collision between a police vehicle and any individual, did not hear any sounds that indicated that there was a collision, and did not have any knowledge of a collision.

The investigation did not obtain any video footage capturing the collision. However, as noted above, Lt. Dasaro's BWC footage (BR 16, at 00:15) did capture the moment when PO Brower stopped the vehicle to allow Lt. Dasaro and PO Digioia to exit. Lt. Dasaro was sitting in the rear passenger seat. The footage is dark and shaky, but it is clear that Lt. Dasaro exits immediately onto the southern crosswalk at the intersection of § 87(2)(b) and § 87(2)(b) (based upon the parking payment machine seen on the sidewalk just south of the crosswalk). At most, his rear passenger door came to a stop 1-2 feet north of that crosswalk.

The investigation did not identify any police records, aside from PO Brower's memo book, documenting any vehicle accidents or collisions.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Members of the NYPD pledge to protect the lives and property of their fellow citizens and to value human life, respect the dignity of each individual, and render their services with courtesy and civility. Patrol Guide Procedure 200-02 (BR 82). Department policy requires that officers' pursuit of a suspect in a fleeing vehicle must be terminated whenever the risks to uniformed members of the service and the public outweigh the danger to the community if the suspect is not immediately apprehended. Patrol Guide Procedure 221-15 (BR 83).

Patrol Guide Procedure 221-15 is concerned specifically with pursuits of fleeing vehicles. Nonetheless, it articulates the broader mandate that officers must exercise due care when operating police vehicles, and that driving which puts other civilians at risk must be justified by a greater

§ 87(2)(b), § 87(2)(g)

**Allegation (I) Abuse of Authority: Lieutenant John Dasaro threatened § 87(2)(b) with the use of force.**

**Allegation (J) Force: Lieutenant John Dasaro pointed his gun at § 87(2)(b)**

It is undisputed that Lt. Dasaro pursued § 87(2)(b) ordered him to stop, and pointed his gun at him. It is also undisputed that there was nothing in the radio transmissions or in the 911 text system which indicated that the robbery suspects used or possessed any weapons (BR 60, 65).

§ 87(2)(b) testified that Lt. Dasaro chased after him and said, “Stop before I shoot.”

§ 87(2)(b) stopped, turned around, and put his hands in the air. When § 87(2)(b) turned around, Lt. Dasaro was pointing his gun at him. Lt. Dasaro told § 87(2)(b) to get onto the ground and he complied. Lt. Dasaro holstered his gun when § 87(2)(b) got onto the ground.

§ 87(2)(b) saw Lt. Dasaro chasing § 87(2)(b). Lt. Dasaro yelled something to the effect of, “Stop, stop, stop, we’re going to tase you.” § 87(2)(b) was not sure if Lt. Dasaro threatened to shoot § 87(2)(b).

No other civilian testified to seeing either of these allegations.

Lt. Dasaro’s BWC footage shows him exit from his vehicle and begin running (BR 16, at 00:19). There is no audio until 00:30. At 00:40, Lt. Dasaro yells, “Stop right now bro, get on the fucking floor.” § 87(2)(b) stops, outstretches his hands in front of him, and gets onto the ground. At 00:46, Lt. Dasaro points his gun at § 87(2)(b) who is sitting on the ground. Lt. Dasaro tells him to roll over and show his hands. § 87(2)(b) says that he does not have anything on him. Lt. Dasaro’s gun is visible until 00:50, when he appears to lower his gun (see screenshots at BR 84). The camera angle and extremely dark setting prevented the BWC from capturing a comprehensive view of this portion of the incident. At 00:52, PO Digioia, who is not visible, begins issuing commands to § 87(2)(b) and Lt. Dasaro steps away to make a radio transmission.

As noted above, Lt. Dasaro testified that he believed he was pursuing the robbery perpetrators. During the pursuit, Lt. Dasaro saw one individual drop a baseball bat onto the ground. He could not tell who dropped the bat. PO Brower recalled seeing one of the teens throw a backpack, with a baseball bat sticking out, over the metal fence of a nearby school. Lt. Dasaro denied that he said,

“Stop before I shoot,” or made any similar threat. § 87(2)(b) slowed down after approximately a block and a half. As Lt. Dasaro got closer to § 87(2)(b) he could not see his hands. Lt. Dasaro did not recall if he observed any bulges on § 87(2)(b)'s person, and he did not see whether § 87(2)(b) made any movements or reached for anything. Lt. Dasaro told him to get on the ground and to show his hands, but he moved into a “crouched forward” position on the ground and still did not show his hands. Lt. Dasaro believed that § 87(2)(b) may have had a weapon, he feared for his safety, and so he pointed his gun at him. He issued additional commands, and § 87(2)(b) turned over. Lt. Dasaro then saw that he did not have a weapon, at which point he lowered his gun. Lt. Dasaro could not estimate for how long he pointed his gun at § 87(2)(b). Upon viewing his BWC footage, Lt. Dasaro explained that he did not know if the footage depicting him pointing his gun (00:47) was when he initially drew his gun. Lt. Dasaro did not think that he was able to see § 87(2)(b)'s hands at that point.

Lt. Dasaro cited a number of reasons for his belief that § 87(2)(b) may have had a weapon: he was investigating a violent crime, § 87(2)(b) was running from officers, § 87(2)(b) was not compliant with his commands, and he could not see § 87(2)(b)'s hands. Lt. Dasaro also cited the discarded baseball bat as contributing to his belief that § 87(2)(b) was armed, because he could not tell who dropped the baseball bat and thus did not know who else in the group may have had weapons.

PO Digioia testified that § 87(2)(b) was already on the ground and Lt. Dasaro was pointing his gun at him when he reached the scene. He did not hear Lt. Dasaro say, “Stop before I shoot.” PO Digioia saw Lt. Dasaro point his gun for fewer than ten seconds, during which time PO Digioia handcuffed § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. Serious physical injury is any injury which creates substantial risk of death, serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of function of any bodily organ or limb. Drawing a firearm prematurely or unnecessarily limits an officer's options in controlling a situation and may result in an unwarranted or accidental discharge. Deadly physical force can only be used to protect officers or civilians from “imminent serious physical injury or death.” Patrol Guide Procedure 221-01 (BR 87). Discharging a firearm is a use of deadly physical force, as it is readily capable of causing death or serious physical injury. Patrol Guide Procedure 221-03 (BR 86).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (K) Discourtesy: Lieutenant John Dasaro spoke discourteously to § 87(2)(b)**

**Allegation (L) Discourtesy: Police Officer Christopher Digioia spoke discourteously to § 87(2)(b)**

§ 87(2)(b) did not testify that Lt. Dasaro or PO Digioia used discourteous language, but the BWC footage shows them doing so, and they confirmed that they did so during their interviews.

Lt. Dasaro's BWC footage (BR 16, at 00:40) shows him yelling, "Stop right now bro, get on the fucking floor, get on the fucking floor, get on the fucking floor, now, now, on the fucking floor!" He then said, "Roll over, show me your fucking hands," and, "Turn the fuck around." PO Digioia then said, "Turn the fuck around, give me your fucking hands," and, "Put your fucking hands behind your back." At 01:40, as officers lead a handcuffed § 87(2)(b) down the block, Lt. Dasaro tells him, "Shut up." § 87(2)(b) continues speaking and Lt. Dasaro then tells him, "The fuck up." Lt. Dasaro was not making any radio transmissions at that point. At 02:31, PO Digioia speaks with § 87(2)(b) about the fact that he ran from police. PO Digioia tells him, "Don't even go there. You're as dumb as the rest of your friends."

Lt. Dasaro testified that he used profanity toward § 87(2)(b) to emphasize what he was saying in order to gain compliance. Specifically regarding the moment when he told § 87(2)(b) to "shut the fuck up," Lt. Dasaro testified that he could not concentrate while he was making radio transmissions because § 87(2)(b) was yelling. PO Digioia similarly testified that he used profanity to gain compliance and induce. PO Digioia called him "dumb" due to the heightened nature of the incident and because § 87(2)(b) ran from the officers.

Officers must treat every citizen with compassion, courtesy, professionalism, and respect. Officers must "maintain a higher standard of integrity than is generally expected of others." Patrol Guide Procedure 200-02 (BR 82). The NYPD's disciplinary decisions "have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct." NYPD Disciplinary Case No. 76927/04 (2004) (BR 88).

§ 87(2)(b), § 87(2)(g)

**Allegation (M) Force: An officer pointed his gun at § 87(2)(b)**

§ 87(2)(b) recounted that as he ran north on § 87(2)(b) he saw an officer point his gun at his friend § 87(2)(b) about half a block away. The officer pointed his gun at § 87(2)(b) chest for about three or four seconds. Another friend's girlfriend, whose name § 87(2)(b) did not know, stepped in front of § 87(2)(b) and the officer lowered his gun. § 87(2)(b) described the officer as a light-skinned man, in his late 20s-mid 30s, 6'0" tall, 200 pounds, with brown or black hair, and wearing a vest, short-sleeved shirt, and cargo shorts. § 87(2)(b) continued running and did not see the rest of the interaction. The investigation obtained a phone number for § 87(2)(b) and reached him, but he did not provide his surname and made no statements about the incident. Further contact attempts to his mother were unsuccessful. No other civilian testified to seeing this allegation.

None of the interviewed officers other than Lt. Dasaro testified to pointing a gun at anyone during the incident, and they all denied seeing any officer do. DI O'Malley testified that she was not aware of any officer pointing a gun aside from Lt. Dasaro.

The investigation did not obtain any video footage depicting this allegation. No officer depicted in BWC footage was wearing cargo shorts.

§ 87(2)(b)  
(b), § 87(2)(b)  
(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation (N) Force: Police Officer Shingru Wang used physical force against § 87(2)(b)**

As noted above, when the teenagers fled from Lt. Dasaro, Sgt. Ankele began pursuing § 87(2)(b) and § 87(2)(b) on foot. PO Wang and his partners arrived and assisted Sgt. Ankele in apprehending them. It is undisputed that PO Wang grabbed § 87(2)(b) went to the ground with him, and participated in cuffing him. It is also undisputed that § 87(2)(b) resisted PO Wang's efforts to apprehend him.

§ 87(2)(b) testified that PO Wang grabbed his left upper arm with two hands, jumped on his back, and told him to get down. § 87(2)(b) moved his body in the opposite direction in order to prevent PO Wang from throwing him onto the ground. § 87(2)(b) felt a great deal of pressure on his back.

PO Wang recounted that § 87(2)(b) tensed and wiggled to avoid being placed in custody. He denied that he intentionally took § 87(2)(b) to the ground and said that he was not certain how they both came to the ground.

BWC footage did not depict or did not clearly depict this interaction. PO Wang's BWC footage (BR 04, at 00:23) showed him running toward § 87(2)(b) and becoming involved in a physical altercation, but his BWC fell off his uniform.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. In all circumstances, any application or use of force must be reasonable under



the circumstances. Patrol Guide Procedure 221-01 (BR 87).

§ 87(2)(b), § 87(2)(g)

**Allegation (O) Abuse of Authority: Police Officer Shingru Wang frisked § 87(2)(b)**

It is undisputed that PO Wang briefly frisked § 87(2)(b) waistband after he was cuffed to ensure that he did not have any weapons. At that point, PO Wang solely suspected § 87(2)(b) of resisting arrest and disorderly conduct, based upon him running from Sgt. Ankele. PO Wang confirmed in his testimony that he did not yet know that § 87(2)(b) was suspected of committing robbery. PO Wang did not have any specific safety concerns about § 87(2)(b) beyond that he had resisted arrest and fled from a uniformed officer.

Neither § 87(2)(b) nor any other civilian testified to this allegation. PO Wang's frisk is not depicted in his or any other officer's BWC footage. As noted above, the video footage was very dark and did not provide a comprehensive view of this interaction.

An officer may conduct a frisk when he or she reasonably suspects a person is armed and dangerous. Reasonable suspicion must be based upon specific and articulable facts. Patrol Guide Procedure 212-11 (BR 89). An officer has sufficient cause to frisk § 87(2)(b) if he or she reasonably suspects the individual has committed, is committing, or is about to commit a serious and violent crime such as robbery. *People v. Mack*, 26 N.Y.2d 311 (1970) (BR 90).

§ 87(2)(b), § 87(2)(g)

**Allegation (P) Abuse of Authority: Police Officer Shingru Wang damaged § 87(2)(b) property.**

It is undisputed that PO Wang removed § 87(2)(b) backpack from his person by cutting it with a knife. § 87(2)(b) testified that PO Wang was able to remove one backpack strap without cutting it, but that he then cut the other backpack strap. PO Wang testified that he did first try to remove the backpack without damaging it, but he was unsuccessful and resorted to cutting it. He did not feel it was safe to uncuff § 87(2)(b) in order to remove the backpack without damaging it, as § 87(2)(b) had already fled from officers. He did not have any specific safety concerns about § 87(2)(b) but he noted that he did not know what he would have grabbed, what he had on him, or what he may have tried to do if his cuffs were removed. PO Wang explained that he had to remove the backpack in accordance with typical procedures when someone is taken into custody. He confirmed, however, that he did not know why officers were apprehending § 87(2)(b) and that he did not know at that time whether § 87(2)(b) was going to be arrested.

PO Wang's BWC footage (BR 04, at 01:51) shows that § 87(2)(b) pleaded with him not to damage his backpack. The footage is dark and does not clearly show PO Wang cutting the backpack or first attempting to remove it without cutting it. Other BWC footage showed that at least § 87(2)(b) who was also cuffed, was permitted to wear his backpack for an extended period as he waited against the cinema wall.

PO Kutny, Sgt. Dickson, Sgt. Ankele, who were present in the area at the time, did not recall seeing PO Wang cut the backpack. The investigation could obtain no further evidence regarding whether PO Wang succeeded in unfastening one of the straps before cutting the second one. § 87(2)(g)

Officers must give due respect to property and may only damage property if doing so is “reasonably necessary” to effectuate their duties. *Onderdonk v. State*, 170 Misc. 2d 155 (1996) (BR 91).

§ 87(2)(b), § 87(2)(g)

**Allegation (Q) Abuse of Authority: Deputy Inspector Megan O’Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (R) Abuse of Authority: Deputy Inspector Megan O’Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (S) Abuse of Authority: Deputy Inspector Megan O’Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (T) Abuse of Authority: Deputy Inspector Megan O’Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (U) Abuse of Authority: Deputy Inspector Megan O’Malley failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

§ 87(2)(b) and § 87(2)(b) testified that officers did not tell them or their friends why they were stopped. They each repeatedly emphasized that they did not have any understanding about why officers approached, pursued, and apprehended them, as none of the officers ever told them. § 87(2)(b) recounted that he went to the 76<sup>th</sup> Precinct stationhouse after being released at the scene, and that officers there gave him varying explanations for the stop.

Twenty-one BWC videos depict the interaction at § 87(2)(b) and § 87(2)(b). Many officers had partial recordings of the interaction at that location, but in sum, the wide array of footage appears to contain a largely comprehensive view of the incident. Neither DI O’Malley nor PO Brower had BWC footage from this timeframe. None of the footage depicts DI O’Malley, PO Brower, or any officer ever providing any explanation to the five teens for why they were being stopped.

DI O’Malley, who was not interviewed until 23 months after the incident, testified that she told the five teens that they were being detained regarding a robbery. She believed that they heard what she said because they reacted to her and asked various questions. DI O’Malley did not recall at what exact point she provided the explanation, but she knew it was at § 87(2)(b) and § 87(2)(b). DI O’Malley was also “sure” that other officers told the boys why they were stopped, but she could not recall which officers. PO Brower, who was interviewed 22 months after the incident, recounted that he was “pretty sure” that he explained to one of the teens (he could not recall which) why he was stopped. PO Brower also could not recall what he told the teen. PO Brower believed that all five teens heard him because they were all standing next to each other. PO Brower did not know whether any other officer told the boys why they were stopped. PO Brower’s Stop Reports note that officers explained the reason for the stop to all five boys (BR 73). PO Brower testified that Lt. Dasaro gave him all the information which appeared in these reports.

PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar (BR 70), Sgt. Ankele, and Lt. Dasaro each denied or did not recall whether they or any officer told the boys why they were stopped.

§ 87(2)(b), § 87(2)(g)

During a law enforcement activity, which includes questioning of individuals suspected of criminal activity and pedestrian stops, officers must provide to such a person an explanation or reason for such law enforcement activity, unless providing such information would impair a criminal investigation. NYC Administrative Code § 14-174 (BR 92).

§ 87(2)(b), § 87(2)(g)

**Allegation (V) Abuse of Authority: Police Officer Christopher Digioia interfered with § 87(2)(b)'s use of a recording device.**

§ 87(2)(b) recounted that, prior to being told to stand against the wall of § 87(2)(b), he took out his phone to record the interaction and PO Digioia yelled at him to put his phone away. As a result, he was not able to make any recording. § 87(2)(b) also testified that § 87(2)(b) took out his cellphone to record and that an officer told him to put his phone down.

In PO Akhtar's BWC footage (BR 01, at 00:48), an unseen male officer repeatedly tells an unseen civilian to put his phone in his pocket and to stand against the wall. The statements are also audible in PO Digioia's BWC footage, though the camera is obscured (BR 06, at 02:18).

PO Digioia testified that he did not recall whether any of the teens attempted to film the interaction. He acknowledged that it was possible that he would have told one of the teens to put a phone away. PO Digioia testified generally that he understood that civilians can record interactions with police at any time. After viewing the BWC footage, PO Digioia testified that the voice in the footage sounded like his, though he still did not recall making those statements. He explained that, if he did make those statements, it was because he did not want any of the teens to be able to call more bystanders to the scene while officers were conducting an investigation. PO Digioia confirmed that he would have allowed any of the teens to film the interaction. PO Digioia hypothesized that, if he did tell § 87(2)(b) to put his phone in his pocket, then it must not have appeared that § 87(2)(b) was attempting to record with the phone.

PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar, Sgt. Ankele, Lt. Dasaro, and PO Brower each either denied or did not recall whether they or another officer told § 87(2)(b) to put his phone away.

§ 87(2)(b), § 87(2)(g)

Individuals have a right to lawfully record police activity. This right to record can be limited based upon officer safety concerns or when a violation of law is committed. Officers cannot discourage § 87(2)(b) from recording police activity or intentionally block or obstruct recording devices when there is no legitimate law enforcement reason to do so. Patrol Guide Procedure 203-29 (BR 93).

§ 87(2)(b), § 87(2)(g)

**Allegation (W) Abuse of Authority: Lieutenant John Dasaro searched § 87(2)(b)**

**Allegation (X) Abuse of Authority: Lieutenant John Dasaro searched § 87(2)(b)**

**Allegation (Y) Abuse of Authority: Lieutenant John Dasaro searched § 87(2)(b)**

**Allegation (Z) Abuse of Authority: Lieutenant John Dasaro searched § 87(2)(b)**

**Allegation (AA) Abuse of Authority: Lieutenant John Dasaro searched § 87(2)(b)**

**Allegation (AB) Abuse of Authority: Officers searched § 87(2)(b)**

**Allegation (AC) Abuse of Authority: Officers searched § 87(2)(b)**

**Allegation (AD) Abuse of Authority: Officers searched § 87(2)(b)**

**Allegation (AE) Abuse of Authority: Officers searched § 87(2)(b)**

**Allegation (AF) Abuse of Authority: Officers searched § 87(2)(b)**

**Allegation (AG) Abuse of Authority: An officer damaged § 87(2)(b)'s property.**

§ 87(2)(b) and § 87(2)(b) testified that all five boys had backpacks, and that Lt. Dasaro and other officers searched all the backpacks. § 87(2)(b) did not recall which other officers searched the backpacks, while § 87(2)(b) recounted that two additional male plainclothes officers did so. He further alleged that an officer ripped his bag by forcefully pulling on the zipper when searching it. He was not sure which officer damaged his bag. He provided photographs of his damaged backpack (BR 94-95). § 87(2)(b) testified that officers put his backpack, § 87(2)(b)'s backpack, § 87(2)(b) backpack, and possibly § 87(2)(b)'s backpack in a pile on the sidewalk, but he did not see anyone search the backpacks.

§ 87(2)(b) and § 87(2)(b) stated that they saw officers search the boys' backpacks. They differed on how many officers did so and on whether the officers were uniformed or plain-clothed, and none could describe the officers in any detail. All three witnesses did not see or were not sure whether an officer damaged a backpack.

BWC footage depicts several officers removing backpacks from the teens, walking away while holding backpacks, and/or handing backpacks to a different officer, who then walk out of sight with

the bags (BR 01, at 07:30 and 08:45; BR 18, at 08:17). BWC footage does not show any officer searching anyone's backpack or damaging a backpack.

Lt. Dasaro, PO Digioia, PO Brower, PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, Sgt. Ankele, PO Akhtar, and DI O'Malley each denied or did not recall whether they or any officer searched anyone's backpack.

§ 87(2)(b), § 87(2)(g)

**Allegation (AH) Abuse of Authority: Lieutenant John Dasaro frisked** § 87(2)(b)

**Allegation (AI) Abuse of Authority: Lieutenant John Dasaro frisked** § 87(2)(b)

**Allegation (AJ) Abuse of Authority: Lieutenant John Dasaro frisked** § 87(2)(b)

**Allegation (AK) Abuse of Authority: Lieutenant John Dasaro frisked** § 87(2)(b)

**Allegation (AL) Abuse of Authority: Lieutenant John Dasaro frisked** § 87(2)(b)

**Allegation (AM) Abuse of Authority: Lieutenant John Dasaro searched** § 87(2)(b)

**Allegation (AN) Abuse of Authority: Lieutenant John Dasaro searched** § 87(2)(b)

It is undisputed that Lt. Dasaro frisked § 87(2)(b) pants pockets. It is also undisputed that Lt. Dasaro and PO Kutny both frisked § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b) testified that Lt. Dasaro frisked his pants pockets and then removed his cellphone from his front left pocket. Lt. Dasaro saw § 87(2)(b)'s photograph on the phone screen and handed the phone back to him. § 87(2)(b) also recounted seeing Lt. Dasaro take § 87(2)(b)'s phone. He added that Lt. Dasaro touched the phone screen and told § 87(2)(b) to unlock the phone and § 87(2)(b) refused. § 87(2)(b) testified that Lt. Dasaro quickly frisked his pants and hoodie sweatshirt pockets but did not search him. An officer, whom he could not recall, also frisked § 87(2)(b) and § 87(2)(b) on their pants pockets. § 87(2)(b) testified that no officer frisked or searched him or his friends.

Lt. Dasaro did not have any BWC footage from this time period. Other officers' BWC footage shows Lt. Dasaro frisking § 87(2)(b)'s pants pockets and sweatshirt pockets (BR 07, at 08:01), PO Kutny frisking § 87(2)(b)'s pants pockets and the sides of his body (BR 20, at 08:05), and Lt. Dasaro frisking § 87(2)(b) pants pockets before putting his hand into § 87(2)(b) sweatshirt pocket (BR 07, at 08:10). Lt. Dasaro did not remove anything. § 87(2)(b) was arrested approximately 12 minutes after Lt. Dasaro searched his pocket (BR 31, at 00:38).

BWC footage (BR 20, at 08:14) shows that Lt. Dasaro reached toward the right side of § 87(2)(b)'s pants. It was not visible whether Lt. Dasaro frisked the pants pocket. The camera panned away and when it panned back, Lt. Dasaro was holding an illuminated cell phone. At 08:22, § 87(2)(b) says, "Press it, that's me. I got my phone in my pocket and that's it." Lt. Dasaro then placed § 87(2)(b)'s phone back in his pocket, and then touched the side of his pants again (BR 27, 03:07). § 87(2)(b) was arrested approximately ten minutes after Lt. Dasaro searched his pocket (BR 09, at 01:02).

BWC footage (BR 29, at 05:01) shows that PO Digioia reached his arm toward § 87(2)(b) and

§ 87(2)(b) The footage does not clearly show whether he frisked either teen.

Lt. Dasaro and PO Kutny initially could not recall whether they or any officer frisked or searched anyone. They did not recall whether they suspected that any of the teens had any weapons, though all three believed frisks would have been justified because the boys were suspected of committing a violent crime. Lt. Dasaro and PO Kutny later confirmed that the footage showed them frisking § 87(2)(b) and § 87(2)(b). Upon reviewing BWC footage, Lt. Dasaro said that he did not independently recall searching § 87(2)(b). He did not know whether § 87(2)(b) was under arrest at that point.

Lt. Dasaro did not independently recall whether he frisked § 87(2)(b) or searched his pocket. After viewing the BWC footage, Lt. Dasaro said that he did not independently recall taking an item out of § 87(2)(b)'s pocket and he could not tell, based on the footage, if the item he was holding was a cellphone.

PO Digioia could not recall if he frisked or searched anyone. PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar, Sgt. Ankele, PO Digioia, and DI O'Malley each denied or did not recall seeing any of these allegations.

PO Brower's Stop Reports (BR 73) detailed that all five teens were frisked. The reports cited "violent crime" as the sole basis for the frisks. The reports also noted that § 87(2)(b) and § 87(2)(b) were searched incident to an arrest. The reports provided no other reason for the searches. PO Brower testified that Lt. Dasaro gave him all the information for the reports. Lt. Dasaro did not testify about the role he played in helping PO Brower complete the reports.

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)

As Lt. Dasaro was supervising the stop and gave PO Brower the information for the Stop Reports, PO Kutny's frisk of § 87(2)(b) and PO Digioia's frisks of § 87(2)(b) and § 87(2)(b) are pleaded against him.

An officer may conduct a frisk when he or she reasonably suspects a person is armed and dangerous. Reasonable suspicion must be based upon specific and articulable facts; "hunches or gut feelings are not sufficient." Where a frisk reveals an object that the member of the service reasonably suspects may be a weapon, an officer may search only those interior portions of the individual's clothing to remove the weapon felt during the frisk. Patrol Guide Procedure 212-11 (BR 89). Where an officer confronts § 87(2)(b) whom he reasonably suspects has committed, is committing, or is about to commit such a serious and violent crime as robbery, that suspicion not

only justifies the detention but also the frisk, thus making it unnecessary to particularize an independent source for the belief of danger. *People v. Mack*, 26 N.Y.2d 311 (1970) (BR 90).

When an officer has probable cause to make an arrest, the officer may arrest the suspect and conduct a search incident to a lawful arrest. *People v. De Bour*, 40 N.Y.2d 210 (1976) (BR 76). For a search incident to an arrest to be valid, a search must be incident to an actual arrest. The search and arrest must be “nearly simultaneous so as to constitute one event.” *People v. Evans*, 43 N.Y.2d 160 (1977) (BR 96).

§ 87(2)(b), § 87(2)(g)

**Allegation (AO) Abuse of Authority: Police Officer Christopher Brower searched § 87(2)(b)**

**Allegation (AP) Abuse of Authority: Police Officer Christopher Brower damaged § 87(2)(b)**  
**§ 87(2)(b)'s property.**

**Allegation (AQ) Abuse of Authority: Police Officer Christopher Brower searched § 87(2)(b)**  
**§ 87(2)(b)'s recording device.**

It is undisputed that PO Brower removed § 87(2)(b)'s phone from his pocket twice. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) did not recount that PO Brower removed his phone from his pocket. He recounted that he received a call from his mother while holding the phone, and the phone automatically answered the call. He began speaking to his mother without bringing the phone up to his ear. PO Brower took the phone out of his hand and tried to turn off the phone by touching various buttons on the screen. PO Brower asked him to open his phone, but he refused. PO Brower said that the phone did not belong to him, and § 87(2)(b) pointed out that his own photograph was on the screen. PO Brower dropped the phone and he handed it back, which cracked the screen (BR 97-98).

§ 87(2)(b) and § 87(2)(b) did not testify to seeing an officer search § 87(2)(b)'s pocket. § 87(2)(b) recounted seeing PO Brower ask to see the phone while § 87(2)(b) was speaking on a call. § 87(2)(b) refused, and PO Brower hit the phone out of his hand and onto the sidewalk. § 87(2)(b) recounted that an officer asked § 87(2)(b) to type in his passcode after he received a phone call. She did not see an officer drop anyone's phone onto the ground.

PO Brower did not have BWC footage from this timeframe. BWC footage from other officers indicated that PO Brower took the phone from § 87(2)(b) three times during a short period of time. PO Class' footage (BR 20, at 10:26) and PO Kasler's footage (BR 07, at 10:38), in sum, show that PO Brower reaches toward § 87(2)(b) takes his cellphone out of his sweatshirt pocket, and says that he cannot let him talk on the phone. § 87(2)(b) is not audibly speaking on the phone

prior to that point. PO Brower holds the phone for a short time, but it is not visible what he is doing with it. There is an audible thudding noise as PO Brower then drops the cellphone on the ground. PO Brower bends over to pick it up and then returns the phone to § 87(2)(b). Shortly after, § 87(2)(b) appears to start speaking on the phone and he says that the police are holding him. He is not visibly holding the phone. PO Brower reaches toward § 87(2)(b) and takes his phone again, though it is not visible whether PO Brower takes the phone from § 87(2)(b)'s pocket. As PO Brower holds § 87(2)(b)'s cellphone, he tells him, "I need you to open it," and then says, "I need you to show me that it's yours." § 87(2)(b) tells PO Brower that there is a photo on the phone's home screen. After they briefly discuss the photo, PO Brower puts the phone back in § 87(2)(b)'s pocket. Approximately two minutes later, in PO Akhtar's BWC footage (BR 01, at 13:22), § 87(2)(b) begins speaking on the phone again and says that he is located at § 87(2)(b) and § 87(2)(b). At 14:02, PO Brower takes § 87(2)(b)'s cellphone out of his pants pocket. § 87(2)(b) protests that his mother was asking him where he was. PO Brower holds the phone briefly and then puts it back into § 87(2)(b)'s pocket.

PO Brower testified he took § 87(2)(b)'s cellphone out of his pocket and hung up his call twice. The first time, PO Brower took § 87(2)(b)'s phone out of the front pocket of his hooded sweatshirt, and the second time, out of his left pants pocket. On both occasions, § 87(2)(b) was speaking on the phone and provided his location to somebody on the line. PO Brower hung up § 87(2)(b)'s calls because it was not "tactical" to allow a stopped individual to transmit the location of the stop to someone else, as that may prompt additional people to come to the scene. § 87(2)(b) was not under arrest at that point. PO Brower did not have any indication that the phone in § 87(2)(b)'s pocket was stolen.

PO Brower denied that he ever asked § 87(2)(b) to open his phone, and he did not recall whether he asked § 87(2)(b) to demonstrate that the phone belonged to him. He also did not recall whether he dropped § 87(2)(b)'s cell phone. After viewing the BWC footage, PO Brower said he heard a thudding sound and saw himself bend down in the video, but he explained that the video was very grainy and he still did not independently recall dropping a phone on the ground. He testified that he could not hear an officer in the footage say, "I need you to open it," due to the poor audio quality. He testified that he could not recall if he made that statement. PO Brower "partially" heard the officer in the footage say, "I need you to show me that it's yours." He was not sure if he made that statement. Even after viewing the BWC footage, PO Brower still had no recollection of having any conversation with § 87(2)(b) about his phone.

PO Brower's Stop Reports (BR 73) indicated that § 87(2)(b) and § 87(2)(b) were not searched. As previously noted, PO Brower testified that Lt. Dasaro gave him all the information for the reports.

Lt. Dasaro did not recall whether PO Brower searched § 87(2)(b) or instructed him to prove that a cellphone was his. Lt. Dasaro did not see PO Brower drop a cell phone onto the ground. PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar, Sgt. Ankele, PO Digioia, and DI O'Malley each denied or did not recall seeing any of these allegations.

§ 87(2)(b), § 87(2)(g)



§ 87(2)(b), § 87(2)(g)

During a stop, officers may search § 87(2)(b) if they obtain voluntary consent, if a frisk reveals what officers reasonably suspect is a weapon, if they have probable cause, and if the search is incident to a lawful arrest. Patrol Guide Procedure 212-11 (BR 89). Officers must give due respect to property and may only damage property if doing so is “reasonably necessary” to effectuate their duties. *Onderdonk v. State*, 170 Misc. 2d 155 (1996) (BR 91). Absent exigent circumstances, officers cannot search digital information on a person’s cell phone without a warrant. *Riley v. California*, 573 US 373 (2014) (BR 99).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (AR) Abuse of Authority: An officer refused to provide his name to § 87(2)(b)**

§ 87(2)(b) recounted that one of the teens asked her to call his mother when officers were placing him in a police vehicle. An officer stood in front of the vehicle and blocked him from providing the number. § 87(2)(b) asked the officer for his name three or four times, but he ignored her and did not provide his name. The officer was a tall, white male wearing a blue uniform. § 87(2)(b) testified that § 87(2)(b) asked two officers, whom he did not describe, for their shield numbers and they ignored her.

Only PO Rotolo’s (BR 24, at 00:30) and PO Digioia’s BWC footage (BR 31, at 00:00) depict § 87(2)(b)’s interactions with officers. Neither video depicts the entire interaction, and both videos depict a chaotic, crowded scene with various bystanders yelling at various officers and expressing their anger about the situation. The footage does not show § 87(2)(b) asking for an officer’s name or shield number.

PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar, Sgt. Ankele, Lt. Dasaro, PO Digioia, PO Brower, DI O'Malley each denied or did not recall whether a female bystander asked them or any officer for their name or shield number and whether they or any officers refused to provide that information.

§ 87(2)(b), § 87(2)(g)

**Allegation (AS) Discourtesy: Police Officer Christopher Digioia was discourteous toward**

§ 87(2)(b)

**Allegation (AT) Discourtesy: Police Officer Christopher Digioia was discourteous toward**

§ 87(2)(b)

**Allegation (AU) Discourtesy: Police Officer Christopher Digioia was discourteous toward**

§ 87(2)(b)

**Allegation (AV) Discourtesy: Police Officer Christopher Digioia was discourteous toward**

§ 87(2)(b)

**Allegation (AW) Discourtesy: Police Officer Christopher Digioia was discourteous toward**

§ 87(2)(b)

**Allegation (AX) Offensive Language: Police Officer Christopher Digioia was offensive toward**

§ 87(2)(b)

**Allegation (AY) Offensive Language: Police Officer Christopher Digioia was offensive toward**

§ 87(2)(b)

**Allegation (AZ) Offensive Language: Police Officer Christopher Digioia was offensive toward**

§ 87(2)(b)

**Allegation (BA) Offensive Language: Police Officer Christopher Digioia was offensive toward**

§ 87(2)(b)

**Allegation (BB) Offensive Language: Police Officer Christopher Digioia was offensive toward**

§ 87(2)(b)

PO Digioia wore a sweatshirt during the incident that bore an American flag with a thin blue line and the letters “DILLIGAF” on the front. The back of the sweatshirt bore a large Punisher logo, which is a skull with elongated teeth, with the same thin blue line American flag and the letters “DILLIGAF” superimposed over the skull. The sweatshirt sleeves had a smaller version of the same Punisher logo and the letters “DILLIGAF” (see screenshots at BR 100). No civilian described or recounted seeing the above-described logos.

The Punisher is a Marvel comic book character. He operates outside the law as a crime-fighting vigilante who delivers justice to his targets in the form of violent death (BR 101-102). The Punisher skull symbol was partially inspired by similar imagery of the “totenkopf,” a skull-and-crossbones logo worn by the Nazi SS during World War II (BR 104-105). In recent years, the Punisher logo has been embraced by the police and military. In the Iraq and Afghanistan wars, the logo was often embraced by members of the military, including Navy SEAL Chris Kyle, as described in his memoir *American Sniper* and the subsequent film (BR 102). In the United States, multiple police officers have come under investigation for their use of the Punisher logo, including officers in Milwaukee who were involved in the brutal beating of Frank Jude Jr. (BR 106-107). Gerry Conway, the creator of the Punisher, has spoken out about the “disturbing” use of the Punisher symbol by law enforcement (BR 108-109), stating, “The vigilante anti-hero is fundamentally a critique of the justice system, an example of social failure, so when cops put Punisher skulls on their cars or members of the military wear Punisher skull patches, they’re basically sides [*sic*] with an enemy of the system. They are embracing an outlaw mentality.” The Punisher logo has also been

adopted by QAnon conspiracy theorists (BR 111) and the antigovernment militia group Three Percent Nation (BR 112), and was displayed by white supremacists at the 2017 white supremacist rally in Charlottesville and the January 6, 2021, riot at the U.S. Capitol building (BR 113-114). DILLIGAF is a commonly known initialism for the phrase, “Do I look like I give a fuck?”

PO Digioia testified that he wore the sweatshirt because it was a gift from his cousin. In his understanding, the skull on the sweatshirt was just a skull. PO Digioia did not know that the skull represented a Marvel comic book character called The Punisher, and he did not have any awareness of The Punisher or what The Punisher represented. PO Digioia believed that DILLIGAF was the sweatshirt’s clothing brand. PO Digioia denied knowing that DILLIGAF stood for the phrase, “Do I look like I give fuck?” To PO Digioia’s knowledge, the sweatshirt did not violate any NYPD regulations.

The NYPD is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. Officers must “maintain a higher standard of integrity than is generally expected of others.” Patrol Guide Procedure 200-02 (BR 82). Officers are prohibited from knowingly associating with any person or organization advocating hatred, oppression, or prejudice based on race and from engaging in conduct that is prejudicial to good order, efficiency, or discipline of the Department. Patrol Guide Procedure 203-10 (BR 115).

§ 87(2)(b), § 87(2)(g)

**Allegation (BC) Abuse of Authority: Deputy Inspector Megan O’Malley arrested § 87(2)(b)**

**Allegation (BD) Abuse of Authority: Deputy Inspector Megan O’Malley arrested § 87(2)(b)**

**Allegation (BE) Abuse of Authority: Deputy Inspector Megan O’Malley arrested § 87(2)(b)**

It is undisputed that § 87(2)(b) and § 87(2)(b) fled from officers who attempted to stop them, and that they were eventually arrested for obstructing governmental administration. It is also undisputed that some number of victims and witnesses to the robbery came to the scene of the stop, and none positively identified any of the five boys as having been involved. Juvenile Reports prepared by PO Rotolo for § 87(2)(b) and § 87(2)(b) document that they fled on foot when officers attempted to stop them regarding a 10-30 robbery in progress call (see Privileged Records).

DI O’Malley testified that § 87(2)(b) and § 87(2)(b) were arrested for OGA because they refused a lawful order to stop, because a knife and baseball bat had been discarded by members of the group, and their actions endangered the safety of people on the street. Their interference with the officers’ investigation caused a safety risk insofar as they ran from officers on a busy night, discarded dangerous weapons, and caused multiple officers to run through the streets. DI O’Malley’s determination was based upon information provided to her by Lt. Dasaro

and Sgt. Dickson, but as the highest-ranking supervisor on scene, it was ultimately her decision to arrest the teens.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or attempts to prevent a public servant from performing an official function by means of intimidation, physical force or interference, or any independently unlawful act. New York Penal Law § 195.05 (BR 116). While running from a police officer may create other rights and duties for the police officer, it does not satisfy the requirement that a defendant physically interfered with an investigation being conducted by that officer, and it is thus legally insufficient to sustain a charge of OGA. *People v. Ferreira*, 10 Misc. 3d 441 (2005) (BR 117).

§ 87(2)(b), § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**Allegation (BF) Abuse of Authority: Lieutenant John Dasaro failed to provide § 87(2)(b) with a business card.**

**Allegation (BG) Abuse of Authority: Lieutenant John Dasaro failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) testified that no officer provided business cards to him or to § 87(2)(b) and no officer ever offered him a card or asked if he wanted one. § 87(2)(b) testified that he never saw any officer provide a business card to § 87(2)(b) or § 87(2)(b).

Lt. Dasaro testified that he did not recall if he or any officer offered or provided a business card to § 87(2)(b) and § 87(2)(b). To his knowledge, the two teens did not refuse to take a business card from any officer. Lt. Dasaro explained that he did not believe the officers were required to provide business cards to § 87(2)(b) and § 87(2)(b) because the broader incident resulted in the arrests of the other three teens. However, PO Brower's Stop Reports note that § 87(2)(b) and § 87(2)(b) were offered business cards (BR 73), and PO Brower's memo book detailed that they each "refused" contact number cards (BR 64). PO Brower testified that he was not sure whether he offered a business card to § 87(2)(b) and § 87(2)(b). He did not recall whether any officer offered a business card to anyone or whether anyone refused to take a card. Lt. Dasaro gave him all the information that he documented in the Stop Reports and in his memo book.

PO McGovern, PO Rotolo, PO Kutny, PO Wang, Sgt. Dickson, PO Akhtar, Sgt. Ankele, PO Digioia, and DI O'Malley each either denied or did not recall whether they or another officer provided business cards to § 87(2)(b) and § 87(2)(b) or whether either teen refused to take a business card from an officer.

BWC footage does not show any officer offering a business card to § 87(2)(b) or § 87(2)(b). As discussed, BWC footage was not fully comprehensive.

An officer shall offer a business card at the conclusion of certain law enforcement activities, including pedestrian stops and frisks, to the subject of that law enforcement activity, when such activity does not result in an arrest or summons. NYC Administrative Code § 14-174 (BR 92).

§ 87(2)(b), § 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(4-b), § 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(2)(g), § 87(4-b) [Redacted text block]

§ 87(2)(g), § 87(4-b) [Redacted text block]

§ 87(2)(g), § 87(4-b)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 118).
- § 87(2)(b) has been a party to one CCRB complaint and has not been named a victim in any allegations (BR 119).
  - § 87(2)(b)
- PO Brower has been a member of the NYPD for six years and has been a subject in one CCRB complaints and six allegations, of which two were substantiated:
  - 201904673 involved substantiated allegations of refusal to provide name and shield number against PO Brower. The Board recommended Instructions and the NYPD imposed Instructions.
  - § 87(2)(g)
- DI O'Malley has been a member of the NYPD for 19 years and has been a subject in seven CCRB complaints and 12 allegations, none of which was substantiated. § 87(2)(g)
- PO Digioia has been a member of the NYPD for 13 years and has been a subject in three CCRB complaints and five allegations, of which two were substantiated:
  - 201904673 involved substantiated allegations of refusal to provide name and shield number against PO Digioia. The Board recommended Instructions and the NYPD imposed Instructions.
- PO Wang has been a member of the NYPD for seven years and this is the first CCRB complaint to which he has been a subject.
- PO Kutny has been a member of the NYPD for nine years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Lt. Dasaro has been a member of the NYPD for 12 years and has been a subject in five CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)

### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- As of May 11, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 120). The civil attorney retained by several of the teens also confirmed that no Notice of Claim was filed (BR 103).
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) do not have any history of convictions in New York City (BR 121-127).

Squad: 5

Investigator: Laura Strauss  
Signature

SI Laura Strauss  
Print Title & Name

October 26, 2021  
Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>October 26, 2021</u>
	Signature	Print Title & Name	Date
Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date